

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:) Chapter 15 Case
FAIRFIELD SENTRY LIMITED, et al.,) Case No. 10-13164 (SMB)
Debtors in Foreign Proceedings.) Jointly Administered
FAIRFIELD SENTRY LIMITED (IN LIQUIDATION))
and FAIRFIELD SIGMA LIMITED (IN LIQUIDATION),)
acting by and through the Foreign Representatives thereof,)
and KENNETH KRYS and CHARLOTTE CAULFIELD,)
solely in their capacities as Foreign Representatives and) Adv. Pro. No. 10-03635
Liquidators thereof,) (SMB)
Plaintiffs,)
-against-)
ABN AMRO SCHWEIZ AG a/k/a ABN AMRO)
(SWITZERLAND) AG, ADLER AND CO PRIVATBANK)
AG, ALLIANZBANK SPA/UNIFORTUNE)
CONSERVATIVE SIDE POCKET, ALTERNATIVE)
INVESTMENT STRATEGIES, ARSENAL SPC,)
ARSENAL SPC OBO GLASGOW SEG PORT, BANCA)
ARNER SA, BANCA UNIONE DI CREDITO, BANK)
HAPOALIM SWITZERLAND LTD., BANK JULIUS)
BAER & CO. LTD., BANK SARASIN & CIE, BANQUE)
CANTONALE VAUDOISE, BANQUE CRAMER & CIE)
SA, BBVA (SUISSE) SA, BCV AMC DEFENSIVE AL)
FUND, BNP PARIBAS (SUISSE) SA, BNP PARIBAS)
(SUISSE) SA EX FORTIS, BNP PARIBAS (SUISSE) SA)
PRIVATE, BSI AG, BSI EX BANCA DEL GOTTARDO,)
CACEIS BANK LUXEMBOURG, CBB (BVI)/ THE)
ALKIMA FUND, CBT GEMS LOW VOL REG,)
COMPAGNIE BANCAIRE HELVETIQUE, CENTRUM)
BANK AG (AMS), CLARIDEN LEU LTD., CORNER)
BANCA SA, CREDIT SUISSE AG ZURICH, DEXIA)
BANQUE INTERNATIONALE A, LUXEMBOURG,)
DRESDNER BANK SCHWEIZ, EFG BANK SA)
SWITZERLAND, EFG EUROFINANCIER D'INVEST)
MCL, ENDURANCE ABSOLUTE LTD. MASTER,)
FAIRFIELD INVESTMENT GCI, FAIRFIELD)
INVESTMENT FUND LTD., FALCON PRIVATE BANK,)
FIF ADVANCED LTD., FINTER BANK ZURICH,)
HARMONY CAPITAL FUND LTD., HSBC, IHAG)

HANDELSBANK AG, INCORE BANK AG, KARASEL)
ENHANCED PORTFOLIO, KARLA)
MULTISTRATEGIES LTD., LGT BANK IN)
LIECHTENSTEIN AG, LIECHTENSTEINISCHE LB)
REINVEST AMS, LLOYDS TSB BANK GENEVA,)
LOMBARD ODIER DARIER HENTSCH & CIE,)
LONGBOAT LTD., MASTER CAPITAL AND HEDGE)
FUND, NATIONAL BANK OF KUWAIT, NBK BANQUE)
PRIVEE SUISSE SA, PICTET & CIE, PKB)
PRIVATBANK AG, QUASAR FUNDS SPC A/K/A)
QUASAR FUND SPC CLASS A AND CLASS B CGCNV,)
RBC DEXIA INVESTOR SERVICE JULIUS BAER)
SICAV, RBS COUTTS BANK LTD., RICHOURT AAA)
MULTISTRATEGIES, ROTHSCHILD BANK AG)
ZURICH (DUBLIN) A/K/A ROTHSCHILD BANK AG,)
ROTHSCHILD BANK GENEVA (DUBLIN),)
ROTHSCHILD LUGANO DUBLIN A/K/A BANCA)
PRIVATA EDMOND DE ROTHSCHILD LUGANO S.A.,)
SELLA BANK AG, SIS SEEGANINTERSETTLE, SIX)
SIS LTD., SOCIETE GENERALE BANK & TRUST,)
SOUNDVIEW FUND, SWISSCANTO FD CENTRE)
CLIENTS A/C, T1 GLOBAL FUND LTD., UBS AG NEW)
YORK, UBS AG ZURICH, UBS JERSEY NOMINEES,)
VERWALTUNGS UND PRIVAT-BANK AG)
AKTIENGESELLSCHAFT (AMS), VORARLBERGER)
LANDES UND HYPOTHEKENBANK)
AKTIENGESELLSCHAFT AND BENEFICIAL)
OWNERS OF ACCOUNTS HELD IN THE NAME OF)
CGC NA 1-1000,)
)
)
Defendants.)

STIPULATION AND AGREED ORDER TO VACATE ENTRY OF DEFAULT

WHEREAS, on October 10, 2017, Kenneth M. Krys and Charlotte Caulfield, in their capacities as the duly appointed Liquidators and Foreign Representatives of Fairfield Sentry Limited (In Liquidation), Fairfield Sigma Limited (In Liquidation), and Fairfield Lambda Limited (In Liquidation) (the “Liquidators”), filed a request for entry of default against Defendant Banque Internationale à Luxembourg, formerly known as Dexia Banque

Internationale à Luxembourg (“BIL”) for failure to plead or otherwise defendant the above-captioned action [Dkt. No. 356];

WHEREAS, on October 11, 2017, the Clerk entered a default in this Adversary Proceeding against BIL [Dkt. No. 374];

WHEREAS, BIL inadvertently did not join the consolidated Motion to Dismiss [Consol. Adv. Pro. 10-03496, Dkt. Nos. 959-964, 991] (the “Consolidated Motion to Dismiss”) in this adversary proceeding, or otherwise move to dismiss the claims asserted against it in this Adversary Proceeding by the January 27, 2017 deadline ordered by the Court in the Supplemental Case Management Order [Consol. Adv. Pro. 10-03496, Dkt. No. 918];

WHEREAS, BIL now appears in this action through the undersigned counsel; and

WHEREAS, the Liquidators and BIL have agreed that good cause exists to request that an order be entered pursuant to Federal Rule of Civil Procedure 55(c), made applicable to this adversary proceeding by Federal Rule of Bankruptcy Procedure 7055, vacating the Clerk’s Entry of Default against BIL, without prejudice.

NOW, THEREFORE, it is stipulated and agreed by and between the Liquidators and BIL that:

1. The Clerk’s Entry of Default should be vacated and the Liquidators’ request for Clerk’s Entry of Default be withdrawn, without prejudice.
2. BIL agrees that, should it join or attempt to join the Consolidated Motion to Dismiss, it shall not advance or seek to advance any grounds for dismissal not contained in the Consolidated Motion to Dismiss or any argument for dismissal that is specific to BIL. BIL further agrees that that it will not file or seek to file a motion to dismiss (or memorandum of law

in support of a motion to dismiss) beyond a joinder in the form attached hereto as Exhibit A to the Consolidated Motion to Dismiss.

3. The Liquidators consent to BIL filing a joinder in the form attached hereto as Exhibit A, provided that BIL files or seeks to file such joinder within 7 days of the Court so-Ordering this Stipulation. For the avoidance of doubt, the Liquidators hereby reserve all of their rights and positions in connection with the Consolidated Motion to Dismiss.

Dated: New York, New York
February 8, 2018

/s/ David J. Molton

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Attorneys for the Foreign Representatives

/s/ Jeff E. Butler

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*Attorneys for Defendant Banque Internationale
à Luxembourg f/k/a Dexia Banque
Internationale à Luxembourg*

IT IS SO ORDERED.

Dated: _____, 2018
New York, NY

Hon. Stuart M. Bernstein
United States Bankruptcy Judge

EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:) Chapter 15 Case
)
FAIRFIELD SENTRY LIMITED, et al.,) Case No. 10-13164 (SMB)
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Debtors in Foreign Proceedings.) Jointly Administered
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FAIRFIELD SENTRY LIMITED (IN LIQUIDATION))
and FAIRFIELD SIGMA LIMITED (IN LIQUIDATION),)
acting by and through the Foreign Representatives thereof,)
and KENNETH KRYIS and CHARLOTTE CAULFIELD,)
solely in their capacities as Foreign Representatives and)
Liquidators thereof,)
Plaintiffs,)
)
-against-) Adv. Pro. No. 10-03635
) (SMB)
ABN AMRO SCHWEIZ AG a/k/a ABN AMRO)
(SWITZERLAND) AG, et al.,)
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Defendants.)
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FAIRFIELD SENTRY LIMITED (IN LIQUIDATION))
and FAIRFIELD SIGMA LIMITED (IN LIQUIDATION),)
acting by and through the Foreign Representatives thereof,)
and KENNETH KRYIS and CHARLOTTE CAULFIELD,)
solely in their capacities as Foreign Representatives and)
Liquidators thereof,)
Plaintiffs,)
)
-against-) Adv. Pro. No. 10-03636
) (SMB)
ABN AMRO SCHWEIZ AG a/k/a ABN AMRO)
(SWITZERLAND) AG, et al.,)
)
Defendants.)
)

NOTICE OF JOINDER

PLEASE TAKE NOTICE that Defendant Banque Internationale à Luxembourg, formerly known as Dexia Banque Internationale à Luxembourg (“BIL”), through its undersigned

attorneys, hereby joins, adopts and incorporates by reference the consolidated motion to dismiss, filed by defendants in *Fairfield Sentry Limited (in Liquidation) et al. v. Theodoor GGC Amsterdam, et al.*, Adv. Pro. No. 10-03496 (ECF Doc. Nos. 959-964, 991, 1456, 1457). All arguments raised by the defendants in the Consolidated Memorandum of Law in Opposition to Plaintiffs' Motion for Leave to Amend and in Support of Defendants' Motion to Dismiss (ECF No. 960) are hereby adopted by BIL. Additionally, all arguments raised by the defendants in the Consolidated Reply Memorandum of Law in Further Support of Defendants' Motion to Dismiss (ECF No. 1457) are hereby adopted by BIL.

WHEREFORE, BIL respectfully requests that the Court deny Plaintiffs' Motion for Leave, grant Defendants' Motion to Dismiss, and grant any other and further relief the Court deems just and proper.

Dated: New York, New York
February [], 2018

Respectfully submitted,

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*Attorneys for Banque Internationale à
Luxembourg SA f/k/a Dexia Banque
Internationale à Luxembourg SA*